

Remarks

The application presently consists of claims 1-29. Claims 1-24 and 26-29 were rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over claims 1-9 of US Patent 6,060,170. Claim 25 was withdrawn from consideration. This rejection is traversed and reconsideration and withdrawal of this rejection is respectfully requested.

The Office Action states: "Although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference is the instant claims disclose grafting component is a hydroxyalkyl group whereas the claims of the reference disclose the use of a hydroxyl containing aromatic group. However, they have the same functionality since they are grafted to the aryl radicals in the main chain. Therefore, it would have been obvious to one of ordinary skill in the art to replace the claimed group by hydroxyl containing aromatic group since they have been shown to be effective in a similar system and thus would have been expected to provide adequate results. There is no showing of unexpected results derived from said replacement." (Underline added.)

The polymer structure that is disclosed in '170 is similar to Applicants' present invention; however, in '170 the G groups are individually H; or aromatic groups. In Applicants' present invention the G groups are hydroxyalkyl groups. There is no teaching nor suggestion in '170 to modify the G groups therein with the hydroxyalkyl groups claimed by Applicants, and there is no other prior art reference cited for that purpose. The rejection above, as underlined, says that it would have been obvious to replace the G groups of '170 with the G groups of the present invention based on Applicants' present patent application which shows that it can be done, and that it provides useful results. An obviousness rejection is to be based on prior art, not the disclosure of the Applicants' present application. The fact that the Applicants have made a novel invention that is not taught nor suggested by the prior art is evidence of patentability, not obviousness.

Absent a teaching or suggestion to modify or replace the G groups of '170 with those of the present invention, Applicants invention is novel and unobvious over '170; therefore, the

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double patenting rejection is improper and it is respectfully requested that the claims 1-29 be allowed to issue as a patent.

Early allowance of all the claims is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'ABK', followed by a horizontal line.

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Reg. No. 36,566
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